

Court Copy

IN THE UNITED STATES DISTRICT COURT FOR
THE MIDDLE DISTRICT OF ALABAMA

2007 APR 20 P 1:10

ALONZO AUSTIN, Executor for }
Ruth H. Lewis, Estate }
Plaintiff(S) }

DEBRA P. HACKETT, CLK
U.S. DISTRICT COURT
MIDDLE DISTRICT ALA

VS.

MODERN WOODMEN OF AMERICA }
et al }

Defendant(S)

CIVIL ACTION NO.

3:07-CV-138-MHT-WC

Motion for Summary Judgement by Plaintiff(S) in
response to Motion to DISMISS by Defendant(S)

Plaintiff(S) Pursuant to RULE 56 of the federal Rules
of CIVIL Procedure, Moves the court to enter Summary
Judgement for the Plaintiff(S) on the grounds that there
is no genuine issue as to any material fact, and the
Plaintiff(S) is entitled to Judgement as a matter of Law

In Support of this motion, Plaintiff(S) refers to
the record in this action, including the Complaint,
The answer to it and Plaintiff(S) attached Affidavit
and Exhibit "A".

Alonzo Austin, Pro Se
ALONZO AUSTIN
1321 Oliver-Carroll Rd
Tuskegee, AL 36083
Ph# (334) 727-5476

IN THE UNITED STATE DISTRICT COURT FOR THE
MIDDLE DISTRICT OF ALABAMA

ALONZO AUSTIN, Executor, for }
RUTH H. LEWIS, estate }
Plaintiff(s) }

VS,

MODERN WOODMEN OF AMERICA

et. al,

Defendant(s)

CIVIL ACTION NO

3:07-CV-138-MHT-WC

Affidavit in Support of Motion for Summary Judgment.

STATE OF ALABAMA } ss.

COUNTY OF MACON }

ALONZO AUSTIN, who, being first duly sworn

deposes and says:

1. I am ALONZO AUSTIN, and have personal knowledge of the facts set forth.

This affidavit is submitted in support of the Plaintiff(s) Motion for Summary Judgment for the purpose of showing that there is in this action no genuine issue as to any material fact, and that the Plaintiff(s) is entitled to judgment as a matter of Law. As issue is constitutional in nature.

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2. As stated by plaintiff(s) in the Complaint dated February 14, 2007. Probate Court Judge: ALFONZA MANEFEE, after issuing Temporary Tag on March 3, 1993, to plaintiff(s), refused to certify Durable General Power of Attorney, prepared by the Honorable Albert C. Bulls III, for Principal RUTH H. LEWIS, and directed plaintiff(s) to tear up the Document, claiming Principal Lewis, was unclear and she needed to be protected from people like me!!! After reading same

3. The Document in question is attached as exhibit "A", outlining Plaintiff, Duties and responsibilities. (RES IPSA LOQUITUR).

4. The Document in question was subsequently Certified by Probate Court Judge, of Montgomery County, ALABAMA on June 10, 1994, on the same day that Plaintiff/Agent was Ordered by THE MONTGOMERY CITY POLICE, to Separate from Principal Lewis, during their attempt to escape from Mason Manor Assisted Living Facility, in Montgomery, ALABAMA. Where Principal had been held against her will for months after she was Kidnapped and unlawfully removed from her home in Tuskegee and hid by the Conspiring Defendant(s) from AGENT

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4. Defendant, Probate Judge: ALFONZA MENEFFEE initiated "This Malicious abuse of process" on March 18, 1993 against "The Law Agency" in question with knowledge of its existence.

5. Defendant Probate Judge: ALFONZA MENEFFEE established Guardian and Conservatorship on April 29, 1993, over Principal RUTH H. LEWIS.

6. Defendant, Probate Judge: ALFONZA MENEFFEE Caused a Fraudulent Bond to Issue of \$10,000⁰⁰ For Principal RUTH H. LEWIS, referring to Principal, RUTH H. LEWIS, as WARD.

7. Defendant, Probate Judge: ALFONZA MENEFFEE did on June 6, 1993, issue an order Voiding Principal LEWIS, Durable General Power of Attorney.

8. Defendant, Probate Judge: ALFONZA MENEFFEE issued orders on July 22, 1993, August 5, 1993, and September 7, 1993, a judgement/order of Contempt aimed at "The Law of Agency" primarily to intimidate, arrest and eventually frightened Agent, to breach Fiduciary Duties owed to Agency, thus destroying Same through these corrupt and unlawful bullying tactics, generated by the unlawful acts solely for the purpose of UNLAWFUL CONVERSION of Principal LEWIS, Real, Tangible and intangible Property, valued at approximately \$250,000⁰⁰ or more...

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9. Defendant: Probate Judge: ALFONZA MENESEE
Needed A Cast of Actors to help him pull
this off!!! They are listed below.
- (1) Juanita K. Upshaw as Guardian/Censorator.
 - (2) Deborah Hill Biggers as ATTORNEY for Guardian.
 - (3) Dr. Robert Story, as Psychiatrist.
 - (4) GEORGE H. CLAY, as Bonding Agent, for Guardian.
 5. SOUTH TRUST BANK, now Wachovia Bank, to Embezzle.
 6. ALABAMA Exchange Bank to Embezzle Funds From
 7. Sheriff, of Macm County to Arrest Agent!!!!!!!
 8. Tuskegee City Police, to prevent arrest of Guardian by
Principal or Agent, for theft of vehicle and other
property, Counsel by Tuskegee City Attorney: FRED GRAY SR.
 9. Circuit Judge: Howard F. Bryant, acting as
an Appellant Court, and "issuing a Contempt Order".
 10. Mason Manor, Assisted Living Facility to house
Principal, against her, will in Montgomery, AL
 11. The Montgomery City Police, to prevent
Agent, from removing Principal, from this Facility
 12. The BOARD OF Licensure, to convince
Agent, that help would come eventually...
 13. Regions Bank, to Accept A Fraudulent Title
 14. AETNA INSURANCE, to CANCEL insurance on
Agents, vehicle, while it was still titled to
Agent, while so call Guardian, Juanita Upshaw,
refuse to release vehicle, to Agent, with the
Tuskegee City Police, Laughing in the background.

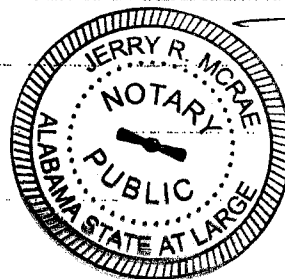
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15. Finally ~~The~~ Law Firm of Gray, Sapp, Langford, McGowan, Gray + Nathanson to act as if there were an estate to administer after the mysterious Death of Principal Lewis on November 26, 1994.

16. In conclusion, there is no question as to a Probate Courts jurisdiction over Guardian/Conservatorship. However, the question raised by the Plaintiff(s) in "The Law of Agency" at the time was did Probate COURT Judge ALFONZA MENESEE, have "Subject matter jurisdiction" of Principal RUTH W. LEWIS and Agent or Attorney-in-fact ALONZO AUSTINE enabling it to take the actions that it took or was the actions taken by the Defendant(s), Named Above Unconstitutional, and as such deprived the Agency, of its Federally Protected Constitutional Civil Rights of Due process and equal protection via 14th Amendment effect, While acting in the "Clear Absence of ALL Jurisdiction" under the "COLOR OF STATE LAW!!!!"

Pursuant to or Arising under 42 U.S.C. § 1983...

(Establishing Principal as Ward of Agent as defendant) by, Alonzo Austine, pro se
Jerry R. McRae, Notary
 Com. Expires 2-28-09



CERTIFICATE OF SERVICE

I do hereby Certify that I have this
day Served a copy of the foregoing
Document upon.

Lanier Ford Shaver & Payne PC
P.O. Box 2087
Huntsville, AL 35804-2087

by depositing same in the U.S. Mail
postage prepaid on the ~~19~~¹⁸th day of April, 2007

~~Alonzo Austin Pro.~~
by ~~Alonzo Austin, pro se~~
ALONZO AUSTIN
1321 Oliver-Carlis Rd,
Tuskegee, AL 36083
Ph# (334) 727-5476

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STATE OF ALABAMA)
COUNTY OF MACON)

DURABLE GENERAL POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS, which are intended to constitute a DURABLE GENERAL POWER OF ATTORNEY, that I, RUTH H. LEWIS, whose address is P.O. Box 265, 1401 Martin Luther King Highway, Tuskegee, AL 36083, do hereby make, constitute and appoint my cousin, ALONZO AUSTIN whose mailing address is Rte. 3; Box 365, Tuskegee, AL 36083, my true and lawful Attorney-in-Fact, for me and in my name, place and stead, and on my behalf and for my use and benefit and to perform the following duties, to wit:

To exercise or perform any act, power, duty, right or obligation whatsoever that I now have, or may hereafter acquire the legal right, power or capacity to exercise or perform, in connection with, arising from, or relating to any person, item, transaction, thing, business property, real or personal, tangible or intangible, or whatsoever.

To request, ask, demand, sue for, recover, collect, receive and hold and possess all such sums of money, debts, dues, commercial paper, checks, drafts, accounts, deposits, legacies, bequests, devises, notes, interests, stock certificates, bonds, dividends, certificates of deposit, annuities, pension and retirement benefits, insurance benefits and proceeds, any and all documents of title, choses in action, personal and property rights, and demands whatsoever, liquidated or unliquidated, as now are, or shall hereafter become, owned by me, or due, owing, payable, or belonging to me, or in which I have or may hereafter acquire interest, to have, use and talk all lawful means and equitable and legal remedies, procedures and writs in my name for the collection and recovery thereof, and to adjust, sell, compromise and agree for the same, and to make, execute and deliver for me, on my behalf, and in my name all endorsements, acquittances, releases, receipts or other sufficient discharges for the same;

To lease, purchase, exchange, and acquire, and to agree, bargain and contract for the lease, purchase, exchange and acquisition of and to accept, take, receive and possess any real or personal property whatsoever, tangible or intangible, or interest thereon, on such terms and conditions, and under such covenants, as my Attorney-in-Fact shall deem proper;

I grant to my said Attorney-in-Fact full power and authority to do, take and perform all and every act and thing whatsoever

Exhibit A
from file
to
Alonzo Austin
Executor for
Testatrix
Ruth H. Lewis

Exhibit A 2

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DURABLE GENERAL POWER OF ATTORNEY:
RUTH H. LEWIS TO ALONZO AUSTIN

PAGE TWO OF TWO PAGES

requisite, proper or necessary to be done, in the exercise of any of the rights and powers herein granted, as fully to all intents and purposes as I might or could do if personally present, with full power of substitution or revocation, hereby ratifying and confirming all that my said Attorney-in-Fact, or his substitute shall lawfully do or cause to be done by virtue of this power of attorney and the rights and powers herein granted;

This instrument is to be construed and interpreted as a DURABLE AND GENERAL POWER OF ATTORNEY. The enumeration of specific items, rights, acts or powers herein is not intended to, nor does it, limit or restrict, and is not to be construed or interpreted as limiting or restricting, the general powers herein granted to my said Attorney-in-Fact.

The rights, powers and authority of my said Attorney-in-Fact herein granted shall commence upon my signing this Power of Attorney and, in addition, said Power of Attorney shall be in full force and effect upon the disability, incompetency or incapacity of the said principal, RUTH H. LEWIS, and such rights, powers and authority shall remain in full force and effect until the death of the principal, RUTH H. LEWIS. Any action taken in good faith pursuant to the foregoing authority without actual knowledge of my death shall be binding upon me, my heirs, assigns and personal representatives.

Done this 2nd day of February, 1993.

Ruth H. Lewis
RUTH H. LEWIS

STATE OF ALABAMA

COUNTY OF MACON

I, ALBERT C. BULLS III, a Notary Public in and for said County in said State, hereby certify that RUTH H. LEWIS, whose name is signed to the foregoing DURABLE GENERAL POWER OF ATTORNEY and who is known to me, acknowledge before me on this day that, being informed of the contents of said DURABLE GENERAL POWER OF ATTORNEY, he executed the same voluntarily on the day the same bears date.

Given under my hand this 2nd day of February 1993.

THIS INSTRUMENT WAS
PREPARED BY
ALBERT C. BULLS III
P.O. BOX 1211
TUSKALOOSA, AL 35608-1211
TELEPHONE 205-727-1074

Albert C. Bulls III
ALBERT C. BULLS III, Notary Public
MY COMMISSION EXPIRES: 4/7/94

1994 JUL 10 PM 1:07

CLERK OF PROBATE

CERTIFIED COPY

I hereby certify this document was filed in
Montgomery County, Alabama on 6/10/94 in
Book 1481
Page 564

Reese McKinnon Jr.
Judge of Probate